

**STANDARD APPLICATION**  
**Harford County**  
**Board of Appeals**  
 Bel Air, Maryland 21014

APR - 6 2006

Case No. 5534  
 Date Filed 4/4/06  
 Hearing Date \_\_\_\_\_  
 Receipt \_\_\_\_\_  
 Fee \$450.00

Shaded Areas for Office Use Only

## Type of Application

- \_\_\_\_\_ Administrative Decision/Interpretation  
 \_\_\_\_\_ Special Exception  
 \_\_\_\_\_ Use Variance  
 \_\_\_\_\_ Change/Extension of Non-Conforming Use  
 \_\_\_\_\_ Minor Area Variance  
 \_\_\_\_\_ Area Variance  
 \_\_\_\_\_ Variance from Requirements of the Code  
 \_\_\_\_\_ Zoning Map/Drafting Correction  
 \_\_\_\_\_

## Nature of Request and Section(s) of Code \_\_\_\_\_

CASE 5534 MAP 40 TYPE Variance

ELECTION DISTRICT 03 LOCATION 507 Summervale Court, Bel Air 21014

BY Mark Tress

Appealed because a variance pursuant to Section 267-30.14 and 267-26C(6) of the  
 Harford County Code to permit an accessory structure within the recorded Forest  
 Retention Area in the R2 District requires approval by the Board.

**NOTE:** A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

## Applicant/Owner (please print or type)

Name Mark F. Tress Phone Number 410-838-1697

Address 507 Summervale Court Bel Air MD 21014  
*Street Number Street City State Zip Code*

Co-Applicant \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

Contract Purchaser \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

Attorney/Representative \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

**Land Description**

Address and Location of Property 507 Summervale Court Bel Air, MD 21014

Subdivision Summervale

Lot Number #4

Acreage/Lot Size 17743 sq. ft.

Election District Third

Zoning Residential R2

Tax Map No. 40

Grid No. 4F

Parcel 243

Water/Sewer: Private ☐

Public ☒

List ALL structures on property and current use: House, shed, above ground pool

Estimated time required to present case: 20 minutes

If this Appeal is in reference to a Building Permit, state number \_\_\_\_\_

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☒

If so, what is the Critical Area Land Use designations: \_\_\_\_\_

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

**Request**

I request a variance to install an inground pool 16' wide x 35' long that would encroach 12' into a forest retention area.

**Justification**

Please see attached

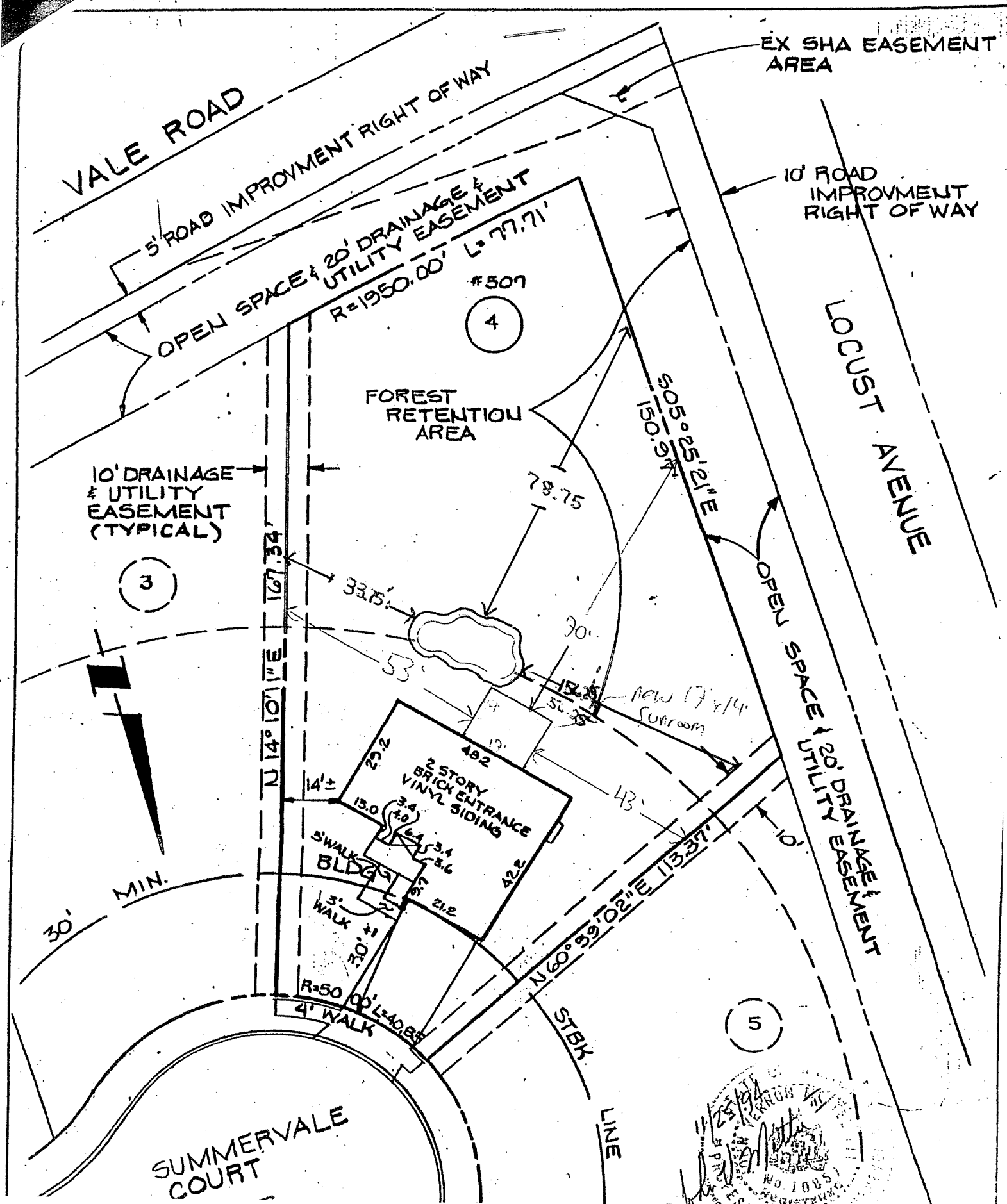
*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

**Justification**

My lot is the largest in the Summervale Development with 17743 square feet of property, of which there is approximately 10371 square feet of backyard area. Due to the forest retention area, only 7.6% or 795sq.ft of area is usable as improvable yard. This is unique in the fact that my property, although the largest, bears a disproportionate share of forest retention area than do my neighbors properties. The "forest" in the forest retention area is on the back perimeter of the property and consists of 24 trees. This area is fully grass covered and maintained. Due to the unique configuration of my property there is nowhere else this pool can be constructed without encroaching into the forest retention area. My contractor will not dig within 8' of a homes' foundation due to the liability of possible foundation damage that could occur. Unrestricted areas on the sides of my house are too small and would cause undue inconvenience to my neighbors since they both have windows facing the sides of my home. The construction of this pool would not involve the removal or disturbance of any trees on my lot. My property already has a privacy fence around the perimeter of the yard. Attached are my neighbors' consents for this action, my property backs up to Locust Avenue so the construction of a pool will have no detrimental effects to adjoining properties.

This development was established in 1994, since that time forest retention codes have changed. It is my understanding that currently developers are discouraged from placing forest retention on personal property due to the inconvenience this causes the property owner.

It is my wish that you approve this variance request so that I can construct an inground pool .I believe this action will not only improve my lifestyle by correcting the hardship of owning a disproportionate share of unusable land but will also increase my property value.



DAVID R. CRAIG  
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO  
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD  
DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

May 5, 2006

### STAFF REPORT

### **BOARD OF APPEALS CASE NO. 5534**

APPLICANT/OWNER: Mark F. Tress  
507 Summervale Court, Bel Air, Maryland 21014

REPRESENTATIVE: Applicant

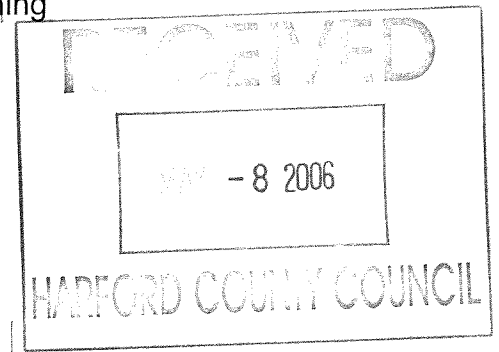
LOCATION: 507 Summervale Road – Development of Summervale  
Tax Map: 40 / Grid: 4F / Parcel: 243 / Lot: 4  
Election District: Three (3)

ACREAGE: 17,743 square feet

ZONING: R2/Urban Residential

DATE FILED: April 4, 2006

HEARING DATE: May 24, 2006



### **APPLICANT'S REQUEST and JUSTIFICATION:**

#### Request:

"I request a variance to install an inground pool 16' wide x 35' long that would encroach 12' into a forest retention area."

#### Justification:

See ATTACHMENT 1.

*Preserving Harford's past; promoting Harford's future.*

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • [www.harfordcountymd.gov](http://www.harfordcountymd.gov)

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

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Mark F. Tress

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### **CODE REQUIREMENTS:**

The Applicant is requesting a variance pursuant to Section 267-30.14 and 267-26C(6) of the Harford County Code to permit an accessory structure within the recorded Forest Retention area in the R2/Urban Residential District.

Section 267-30.14 of the Harford County Code reads:

- A. *The Board of Appeals may grant a variance to this Article in accordance with this Section and Section 267-11 of this chapter.*
- B. *In granting a variance to this Article the Board shall issue specific written findings of fact demonstrating that the granting of the variance will not adversely affect water quality.*

Section 267-26C(6) of the Harford County Code reads:

*No accessory use or structure, except fences, shall be located within any recorded easement area.*

### **LAND USE and ZONING ANALYSIS:**

#### Land Use – Master Plan:

The Applicant's property is part of the Summervale subdivision, located north of Vale Road and west of the Bel Air By-Pass. The lot is situated at the end of Summervale Court and backs up to Vale Road and Locust Avenue. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The property is located within the Development Envelope. The predominant land use designations are Low and Medium Intensities. The subject property is designated as Medium Intensity which is defined by the 2004 Land Use Plan as:

***Medium Intensity** - Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, variety stores and other commercial uses are examples of some of the more intensive uses associated with this designation.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 4 and 5).

#### Land Use – Existing:

The existing land uses conform to the overall intent of the 2004 Master Plan. Residential uses in this area of the County include single family dwellings, townhouses, and condominiums.

## STAFF REPORT

Board of Appeals Case Number 5534

Mark F. Tress

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Commercial uses are generally located within the Town limits of Bel Air, and along Route 24 to the north. The topography of the area ranges from rolling to steep especially near the stream valleys. A copy of the topography map and the aerial photograph are enclosed with the report (Attachments 6 and 7).

The subject lot is located at the end of the cul-de-sac. The lot is approximately 17,743 square feet or 0.41 of an acre in size. The lot is unusually shaped. There is a strip of open space along the south and west sides of the lot separating it from Locust Avenue to the west and Vale Road to the south. The existing improvements consist of a 2-story brick and frame dwelling with an attached 2 car garage and an aboveground pool. The majority of the lot, approximately 60 percent is encumbered by a Forest Retention Easement. While the lot may be one of the largest lots in the development, it has a very limited amount of buildable area. The lot is narrow in the front and the rear of the lot is restricted by forest retention area. There are only scattered trees in the rear yard some of which the Applicant has planted since he purchased the property. The existing aboveground pool is to be removed to make room for the new in-ground pool. Site photographs along with an enlargement of the aerial photograph are enclosed (Attachments 8 and 9).

### Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning in the area ranges from R1 to R3/Urban Residential Districts. The subject property is zoned R2/Urban Residential District as shown on the enclosed copy of the zoning map (Attachment 10).

### SUMMARY:

The Applicant is requesting a variance pursuant to Section 267-30.14 and 267-26C(6) of the Harford County Code to permit an accessory structure within the recorded Forest Retention area in the R2/Urban Residential District.

#### Section 267-30.14:

- A. *The Board of Appeals may grant a variance to this Article in accordance with this Section and Section 267-11 of this chapter.*
- B. *In granting a variance to this Article the Board shall issue specific written findings of fact demonstrating that the granting of the variance will not adversely affect water quality.*

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Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

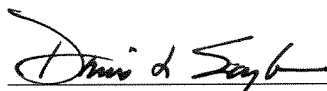
This Department finds that the subject property is unique. The Applicant's lot is one of the largest lots in the subdivision. It is located at the end of the cul-de-sac and is unusually shaped. The lot contains more Forest Retention area than most of the other lots. Approximately 60% percent of the lot is designated as Forest Retention which greatly reduces the buildable area of the property. Although most of the rear yard is recorded as forest retention area, the area contains only scattered trees. The area is maintained as lawn and several of the trees were planted by the applicant. None of the existing trees will need to be removed to install the pool. The pool contractor has stated he cannot come any closer than 8 feet from the foundation wall of the dwelling (Attachment 11). The pool will not adversely impact water quality on the lot. The Department would recommend that landscaping be placed around the southern end of the pool.

The Applicant has submitted statements from two of their neighbors indicating that they do not have an objection to the variance request (Attachment 12 and 13). The Applicant has informed this Department that there is no active Home Owners Association.

**RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the requested variance be approved subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections for the construction of the pool.
2. The Applicant shall submit to the Department for review and approval a landscaping plan for the area around the pool.



Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review



Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning

DJS/ASM/jf